

1 After the Court issues an order for EAJA fees to Shannon D. Lyons, the
2 government will consider the matter of Shannon D. Lyons's assignment of EAJA
3 fees to Marc V. Kalagian. The retainer agreement containing the assignment is
4 attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010),
5 the ability to honor the assignment will depend on whether the fees are subject to
6 any offset allowed under the United States Department of the Treasury's Offset
7 Program. After the order for EAJA fees is entered, the government will determine
8 whether they are subject to any offset.

9 Fees shall be made payable to Shannon D. Lyons, but if the Department of
10 the Treasury determines that Shannon D. Lyons does not owe a federal debt, then
11 the government shall cause the payment of fees, expenses and costs to be made
12 directly to Law Offices of Lawrence D. Rohlfig, pursuant to the assignment
13 executed by Shannon D. Lyons. *United States v. \$186,416.00*, 722 F.3d 1173,
14 1176 (9th Cir. 2013) (*\$186,416.00 II*) (ordering fees paid to counsel because of an
15 assignment that did not interfere with a raised superior lien).¹ Any payments made
16 shall be delivered to Marc V. Kalagian.

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19 ¹ The Commissioner does not stipulate to the citation of *\$186,416.00 II*, and will
20 not participate in representing to this Court that it carries legal import in these
21 proceedings. *\$186,416 II* involved a different statute and very different factual
22 circumstances than those presented here, or in other Social Security cases.
23 Because the parties have agreed to the payment of EAJA fees, and the amount, and
24 to avoid motion practice solely related to Plaintiff's citation, the Commissioner
25 agrees to this stipulation. The Commissioner reserves the right to challenge the
26 applicability of *\$186,416 II* to any Social Security case, and this Stipulation should
not be construed as a waiver of such reservation.

Shannon D. Lyons contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642 F.3d
753, 757 (9th Cir. 2011) (*\$186,416.00 I*) held that there is no functional difference
between the CAFRA and EAJA in terms of "ownership" of the fee.

1 This stipulation constitutes a compromise settlement of Shannon D. Lyons's
 2 request for EAJA attorney fees, and does not constitute an admission of liability on
 3 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
 4 shall constitute a complete release from, and bar to, any and all claims that
 5 Shannon D. Lyons and/or Marc V. Kalagian including Law Offices of Lawrence
 6 D. Rohlfing may have relating to EAJA attorney fees in connection with this
 7 action.

8 This award is without prejudice to the rights of Marc V. Kalagian and/or the
 9 Law Offices of Lawrence D. Rohlfing to seek Social Security Act attorney fees
 10 under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

11 DATE: October 19, 2015 Respectfully submitted,

12 LAW OFFICES OF LAWRENCE D. ROHLFING

13 /s/ Marc V. Kalagian

14 BY: _____

Marc V. Kalagian

15 Attorney for plaintiff Shannon D. Lyons

16 DATED: October 19, 2015 DANIEL G. BOGDEN
 17 United States Attorney

18 /s/ Chantal R. Jenkins

19 Chantal R. Jenkins

Special Assistant United States Attorney
 Attorneys for Defendant Carolyn W. Colvin,
 20 Acting Commissioner of Social Security
 (Per e-mail authorization)

21 **ORDER**

22 Based on the parties' stipulation [ECF 26] and with good cause appearing and no
 23 reason for delay, IT IS HEREBY ORDERED that the **plaintiff is awarded \$3,200.00**
 24 in attorney fees and expenses under the Equal Access to Justice Act and under the
 terms of the stipulation, and **judgment shall be so amended**. Plaintiff's Petition for
 Attorney Fees, Costs, and Expenses [ECF 25] is **DENIED** as moot.

25 _____
 26 Jennifer Dorsey
 U.S. District Judge

10/21/15